Office of the
Conflict of Interest and
Ethics Commissioner

Commissariat aux
conflits d'intérêts et
à l'éthique

LeBlanc Report

2018

Mario Dion

Conflict of Interest and
Ethics Commissioner

September 2018

LeBlanc Report
made under the *CONFLICT OF INTEREST ACT*

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092018-75E

PREFACE

This report is submitted pursuant to the *Conflict of Interest Act* (Act) S.C. 2006, c. 9, s. 2.

The Conflict of Interest and Ethics Commissioner may conduct an examination under the Act at the request of a parliamentarian or, as is the case with this examination, on his own initiative.

When an examination is conducted on the Commissioner's own initiative, unless the examination is discontinued, the Commissioner is required to provide a report to the Prime Minister setting out the relevant facts of the case as well as the Commissioner's analysis and conclusions in relation to the examination. At the same time that the report is provided to the Prime Minister, a copy of the report is also provided to the public office holder or former public office holder who is the subject of the report and the report is made available to the public.

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EXECUTIVE SUMMARY

This report presents the findings of my examination under the *Conflict of Interest Act* of the conduct of the Honourable Dominic LeBlanc, when he was Minister of Fisheries, Oceans and the Canadian Coast Guard, in relation to his decision to pursue issuing an Arctic surf clam licence to the Five Nations Clam Company.

I launched the examination on my own initiative when my Office became aware of information linking a proposal by the Five Nations Clam Company to Mr. Gilles Thériault, a first cousin of Mr. LeBlanc's spouse. Mr. Thériault was to be the company's General Manager should it be granted the licence.

In December 2017, Mr. LeBlanc selected the Five Nations Clam Company as his preferred proponent, and in February 2018 his department announced a licence would be issued to the company. (Fisheries and Oceans Canada later cancelled the process for issuing the licence; the cancellation had no bearing on this examination.)

I had to determine whether Mr. LeBlanc contravened subsection 6(1) and section 21 of the Act. Subsection 6(1) prohibits public office holders from making a decision that would place them in a conflict of interest. As established in section 4, public office holders are in a conflict of interest when they exercise an official power, duty or function that provides an opportunity to further their private interests or those of their relatives or friends or to improperly further another person's private interests. Section 21 requires them to recuse themselves from any discussion, decision, debate or vote on any matter in respect of which they would be in a conflict of interest.

As Minister of Fisheries and Oceans, Mr. LeBlanc was exercising an official power, duty or function when he made the decision to pursue the proposal from the Five Nations Clam Company for the Arctic surf clam licence. His decision provided an opportunity to further the private interest of Mr. Thériault, whose compensation by the company depended on it being granted the licence.

As a first cousin of Mr. LeBlanc's spouse, Mr. Thériault is his relative under subsection 2(3) of the Act, which defines relatives as persons related to the public office holder by birth, marriage, common-law partnership, adoption or affinity. Although I have the discretion to limit the scope of this definition, I found no reason in this case to do so.

Mr. LeBlanc was aware of Mr. Thériault's extensive involvement in the fishing industry. He was also aware of his family relationship to Mr. Thériault when he made the decision to pursue next steps in issuing the licence to the Five Nations Clam Company. In fact, Mr. Thériault raised the licencing issue with Mr. LeBlanc prior to the decision and Mr. Thériault's name appeared on the proposal submitted to Fisheries and Oceans Canada and read in full by Mr. LeBlanc.

I therefore found that Mr. LeBlanc contravened subsection 6(1) and section 21 of the Act.

CONCERNS

On April 27, 2018, I received a letter from Mr. Todd Doherty, Member of Parliament for Cariboo–Prince George, requesting that I initiate an investigation into the conduct of the Honourable Dominic LeBlanc, P.C., M.P., then Minister of Fisheries, Oceans and the Canadian Coast Guard, in relation to the announcement by Fisheries and Oceans Canada that it would be awarding a fourth fishing licence for the Arctic surf clam in Atlantic Canada. Information in the public domain indicated that the Five Nations Clam Company, to whom the fishing licence would be awarded, had been identified by Mr. LeBlanc in a response to a briefing note prepared by Fisheries and Oceans Canada instructing the Department to explore their proposal further, to the exclusion of other proposals.

Mr. Doherty had concerns, on the basis of information in the public domain, that Mr. LeBlanc may have contravened his obligations under the *Conflict of Interest Act* (Act). Mr. Doherty alleged that Mr. LeBlanc had, in making the decision, furthered the private interests of Mr. Edgar Samson, brother of Mr. Darrell Samson, Member of Parliament for Sackville–Preston–Chezzetcook. Mr. Edgar Samson is the CEO and President of Premium Seafoods, a seafood harvesting, processing and marketing company that had partnered with the Five Nations Clam Company for the licencing proposal.

I found that Mr. Doherty's request did not meet the requirements of a request made under section 44 of the Act. Therefore I did not commence an examination under section 44 of the Act and so informed Mr. Doherty and Mr. LeBlanc on May 8, 2018.

Three days later, my Office became aware of information linking the Five Nations Clam Company proposal to Mr. Gilles Thériault, a first cousin of Mr. LeBlanc's spouse. I then decided to commence an examination on my own initiative under section 45 of the Act.

PROCESS

The purpose of this examination was to determine whether Mr. LeBlanc failed to comply with his obligations under the Act when, as Fisheries and Oceans Canada announced on February 21, 2018, he selected Five Nations Clam Company to be the recipient of a fourth fishing licence for the Arctic Surf Clam. This licence was for 25 percent of the total allowable catch, valued at approximately $24 million in sales the first year of the licence.

Before I initiated this examination, the Miawpukek First Nation had launched a judicial review of the ministerial decision communicated in the announcement that a new Arctic surf clam licence would be issued to the Five Nations Clam Company. In the context of these judicial proceedings, the complete record of the Minister's decision, including the proposals he had considered, was filed with the court and became available in the public domain. I was able to refer to this record over the course of my investigation and therefore required less production of documents from third parties.

On May 11, 2018, I sent a letter to Mr. LeBlanc setting out my reasons to believe that he may have contravened his obligations under subsection 6(1), section 7 and section 21 of the Act based on new information found in the public domain indicating that the proposal was linked to Mr. Thériault, and informing him that I had commenced an examination.

Subsection 6(1) of the Act prohibits public office holders from making or participating in making a decision related to the exercise of an official power, duty or function if they know or reasonably should know that, in the making of the decision, they would be in a conflict of interest.

Section 7 prohibits a public office holder, in the exercise of an official power, duty or function, from giving preferential treatment to any person or organization based on the identity of a person or organization that represents the first-mentioned person or organization.

Section 21 of the Act requires that public office holders recuse themselves from any discussion, decision, debate or vote on any matter in respect of which they would be in a conflict of interest.

Section 4 of the Act defines the circumstances in which a public office holder can be understood to be in a conflict of interest, that is when he or she exercises an official power, duty or function that provides an opportunity to further his or her private interests or those of relatives or friends or to improperly further another person's private interests.

I received additional written submissions from Mr. Doherty on May 18, 2018, setting out his grounds for holding an examination. In addition to the provisions listed above, Mr. Doherty alleged contraventions of section 9 and subsection 14(4) of the Act. I did not pursue these two allegations since there was no indication, in my view, that Mr. LeBlanc had contravened either of these provisions.

I received a detailed response from Mr. LeBlanc dated May 14, 2018 as well as additional information from him on May 22, May 25 and July 10, 2018. I also received information from Fisheries and Oceans Canada on June 4 and June 8, 2018.

In June and July 2018, I sought documentary evidence from additional witnesses.

On July 26, 2018, I informed Mr. LeBlanc that I would no longer be pursuing the concerns I previously had under section 7 of the Act, and that I was now limiting my examination to a possible contravention of subsection 6(1) and a possible breach of his duty to recuse as required by section 21 of the Act and invited him to provide additional representations.

Mr. LeBlanc, through his counsel, provided me with additional representations on August 10, 2018, and I conducted an interview with him on August 16, 2018, at the end of the fact-finding process.

Mr. LeBlanc was also given an opportunity to comment on a draft of the factual sections of this report (Concerns, Process, Findings of Fact and Mr. LeBlanc's Position) before it was finalized.

FINDINGS OF FACT

Initial Decision to Issue a Fourth Licence in the Arctic Surf Clam Fishery

The Arctic surf clam is a saltwater clam harvested in the Atlantic, intended primarily for consumption in Asian markets as sushi. Fisheries and Oceans Canada has issued three fishing licences for this species. Since 1999, Clearwater Seafoods has held, either directly or indirectly, all three current offshore surf clam licences.

On December 22, 2016, Fisheries and Oceans Canada publicly announced that a decision would be made concerning increased access to the Arctic surf clam fishery for 2018. In his testimony, Mr. LeBlanc stated that there was significant interest around a fourth licence, both before and after the Expression of Interest process was initiated. He noted there had been pressure in Atlantic Canada from non-Indigenous businesses for a long time, but it was increasingly becoming a source of focus for some Indigenous communities as well.

Mr. LeBlanc announced on September 6, 2017 that, following an expression of interest, he would be issuing a fourth licence in 2018 representing 25 percent of the total existing allowable catch.

Section 7 of the *Fisheries Act* provides that the Minister of Fisheries and Oceans may, in his absolute discretion, issue or authorize to be issued leases and licences for fisheries or fishing anywhere the exclusive right of fishing does not already exist by law. Until a licence is actually issued, the Minister may re-evaluate or reconsider the decision to issue a licence. Mr. LeBlanc stated that the Expression of Interest process was seen as informing the exercise of this broad discretion under the *Fisheries Act*.

The eligibility criteria for the Expression of Interest required applicants to be an Indigenous entity located in one of the four Atlantic provinces or Quebec, be majority owned by Canadians and be able to comply with all existing conditions of the licence. According to Mr. LeBlanc, the criteria set out in the Expression of Interest were intended to advance the government's objectives around reconciliation with Indigenous communities and increase economic development opportunities for Indigenous communities.

A total of nine proposals were received under the Expression of Interest process. Two did not meet the eligibility requirements and were dismissed by Fisheries and Oceans Canada. The Department assessed the remaining seven proposals, one of which was a proposal submitted by the Five Nations Clam Company. The Department also determined that four of the proposals, including the one from the Five Nations Clam Company, set out clear plans for deliverables and timelines in partnership with Indigenous communities. The Department did not suggest which proposal the Minister should select or examine further. Instead, it set out the strengths and weaknesses of each proposal.

In December 2017, following the initial assessment by the Department, Mr. LeBlanc selected Proposal 6, the Five Nations Clam Company proposal, as his preferred option for awarding the fourth licence. In response to the departmental Memorandum to the Minister, Mr. LeBlanc wrote: "Please take next steps with Proponent #6 and ensure that additional indigenous communities are quickly confirmed. Also, please update me before issuing formal license and/or quota."

Mr. LeBlanc confirmed that he had read all the proposals submitted to him for review by Fisheries and Oceans Canada. He stated that he selected Proposal 6 because it was well developed, presented a creative ownership and partnership structure including a partnership with a mid-sized company, Premium Seafoods, and had the greatest participation of Indigenous groups across five provinces.

On February 21, 2018, Fisheries and Oceans Canada announced that a new Arctic surf clam licence would be issued to the Five Nations Clam Company.

The Five Nations Clam Company Proposal

The proposal, dated November 2, 2017, consisted of a letter from Chief Aaron Sock, Chief of the Elsipogtog First Nation and President of the Five Nations Clam Company, and an application for the licence to harvest the Arctic surf clam.

The proposal sets out an economic model where five First Nations communities from New Brunswick, Prince Edward Island, Nova Scotia, Newfoundland and Labrador and Quebec would partner to provide initial capital investment in the company, in exchange for job creation and reinvestment of revenues into the communities. It included the Elsipogtog First Nation, the Nutashkuan Innu and three additional Indigenous communities to be confirmed in partnership with Premium Seafoods, a seafood harvesting, processing and marketing company located in Arichat, Nova Scotia.

Mr. Thériault's involvement with the Five Nations Clam Company

In the Five Nations Clam Company's initial submission to Fisheries and Oceans Canada, Chief Aaron Sock identified Mr. Gilles Thériault as the proposed General Manager of the Five Nations Clam Company, should the licence be awarded to them. Mr. Thériault informed me in his written response to my request for information that the decision was made to add his name to the proposal to give more credibility to the submission, due to his many years of experience related to Indigenous communities and fisheries. Mr. Thériault is currently General Manager of McGraw Seafood, a fishery operator owned by the Elsipogtog First Nation. In this position, he is mentoring a successor from the First Nation to take over in 2019.

The proposal set out Mr. Thériault's anticipated role:

> *Initially, the Five Nations Clam Company will be headed by Gilles Theriault [sic], the current manager of the Elsipogtog First Nation-owned McGraw Seafood fish processing plant in northern New Brunswick. Gilles is a widely respected*

> *expert with over 30 years experience in fisheries-related consulting, negotiations, etc. He has substantial experience working with First Nations fisheries and is currently mentoring a young leader from the Elsipogtog First Nation to take over the management of McGraw Seafood. The same approach will be taken with the Five Nations Clam Company.*

Mr. Thériault added that, as an expert in the field, he was asked by Chief Aaron Sock to identify and contact potential partners for the venture. Mr. Thériault approached a First Nations community in each of the Atlantic provinces as well as Quebec, and also approached Premium Seafoods. While Mr. Thériault was in discussions with these various groups about their involvement, the Elsipogtog First Nation hired a consultant to prepare the proposal. Mr. Thériault wrote that he submitted the proposal electronically to Fisheries and Oceans Canada.

Mr. Thériault wrote that his potential employment with the Five Nations Clam Company was contingent on all partners confirming their participation, on the proposal being selected by the Minister and on the Minister granting the licence to the Five Nations Clam Company.

In his letter to me, Mr. Thériault set out his proposed salary structure as General Manager. Much like his salary with McGraw Seafood, his salary with the Five Nations Clam Company would have been dependent on the total revenue of each of the Five Nations communities partnered in the company. As total revenue for each First Nation increased, Mr. Thériault would be paid a higher percentage of the total revenues. There is no information to indicate that Mr. Thériault would have had any other financial interest in the company.

Mr. Thériault stated that given his age, he would expect to lead the company on an interim basis only.

Mr. LeBlanc's Relationship with Mr. Thériault

Mr. LeBlanc stated that Mr. Thériault is one of his spouse's 60 first cousins. More specifically, he is the son of Mr. LeBlanc's spouse's mother's brother. Mr. LeBlanc told me that neither he nor his spouse has a close, personal relationship with Mr. Thériault, and he has seen him at family gatherings fewer than 10 times in the past 15 years.

Both Mr. LeBlanc and Mr. Thériault, in their letters to me, indicated that they have known each other as acquaintances for many years outside of their family relationship since Mr. Thériault is very involved in the fishery and was a founder of the Maritime Fishermen's Union. Mr. LeBlanc wrote that he first met Mr. Thériault as a child, when his father, the Right Honourable Roméo LeBlanc, was Minister of Fisheries and Oceans.

Mr. LeBlanc confirmed that he had known for many years that Mr. Thériault was his spouse's cousin.

The interactions between Mr. LeBlanc and Mr. Thériault

Both Mr. LeBlanc and Mr. Thériault provided me with separate lists of official and unofficial interactions that had taken place over the last 12 months, and the evidence provided from both was consistent. They both listed four occasions between fall 2017 and summer 2018 where Mr. Thériault and Mr. LeBlanc interacted. The interactions took place both before and after the announcement that the Five Nations Clam Company would be awarded the licence.

In fall 2017, they attended a meeting in Moncton, New Brunswick, convened by the provincial government, to discuss the provincial shipyard in Caraquet, New Brunswick. At the end of this meeting, Mr. Thériault told Mr. LeBlanc that the Elsipogtog First Nation intended to join with other Indigenous communities and apply for the fourth Arctic surf clam licence. There was no other discussion of the licence at that meeting.

On February 4, 2018, Mr. Thériault and Mr. LeBlanc were invited to a social gathering. Mr. Thériault asked Mr. LeBlanc when the announcement regarding the licence could be expected. Mr. Thériault recalled that Mr. LeBlanc said "shortly" while Mr. LeBlanc wrote that his answer was vague and non-committal.

In March 2018, they saw each other at a coffee shop in Shediac, New Brunswick, after Mr. LeBlanc had announced that Fisheries and Oceans Canada would be pursuing the proposal submitted by the Five Nations Clam Company. Mr. LeBlanc told Mr. Thériault that it would be important for Chief Sock and his partners to cooperate with the Department's process.

On April 11, 2018, after Fisheries and Oceans Canada had announced that the Five Nations Clam Company would be awarded the licence, Mr. Thériault and Mr. LeBlanc were both present at a meeting in Shippagan, New Brunswick, between representatives of various stakeholders in the Atlantic snow crab fishery to discuss measures to protect the North Atlantic right whale from entanglement in fishing gear in the Gulf of St. Lawrence. Mr. Thériault attended as a representative of the snow crab fishery. Both Mr. Thériault and Mr. LeBlanc stated that they did not interact at that meeting or discuss the proposal.

In addition to these interactions, Mr. LeBlanc admitted without hesitation that when reading through the proposals, he had noted that Mr. Thériault's name was included in the proposal submitted by the Five Nations Clam Company.

Decision to Cancel the Expression of Interest Process

On July 10, 2018, Mr. LeBlanc wrote to me with a copy of a memorandum containing recommendations from Fisheries and Oceans Canada that the Expression of Interest process for issuing a fourth Arctic surf clam licence be terminated and no licence be issued.

Mr. LeBlanc became Minister of Intergovernmental Affairs and Northern Affairs and Internal Trade on July 18, 2018, and is no longer Minister of Fisheries, Oceans and the Canadian Coast Guard.

MR. LEBLANC'S POSITION

Mr. LeBlanc wrote in his letter of May 14, 2018, that the Call for Expressions of Interest process was, in his view, fully compliant with the Act.

Mr. LeBlanc submitted that Mr. Thériault is not a relative within the meaning of the Act. Mr. LeBlanc indicated that neither he, nor his spouse socialized with Mr. Thériault. Mr. LeBlanc added that Mr. Thériault was never invited to family gatherings attended by friends and close family members, such as Mr. LeBlanc's wedding, birthdays, holidays or election night celebrations. In a subsequent submission, Mr. LeBlanc's counsel also emphasized that, in their view, Mr. Thériault is neither a relative, nor a friend of Mr. LeBlanc for the purposes of the Act. They argued that the definition of a relative under the Act is confined to one's immediate family (by birth or adoption), one's spouse or common-law partner and the immediate family (by birth or adoption) of one's spouse or common-law partner. In their view, the reference to "relatives or friends" in section 4 of the Act is meant to include only the closest of family relations, which would exclude Mr. LeBlanc's relationship with Mr. Thériault. They also noted that there are no provincial or federal conflict of interest statutes that contemplate including cousins, or cousins through marriage, as family members or relatives.

Here, Mr. LeBlanc submitted that there is no evidence of a friendship with Mr. Thériault, citing the Office's past interpretations of friendship to include relationships where a "close bond," a feeling of affection" or a "special kinship" are evident.

Mr. LeBlanc further submitted that Mr. Thériault's private interests could not have been furthered because Mr. Thériault's interests are too remote from the decision-making process to qualify as a conflict under the Act. In order for the furtherance of a private interest to be found, the furtherance must be apparent and direct. In any event, Mr. LeBlanc submitted that even if Mr. Thériault's private interests were furthered, he did so inadvertently since he had no knowledge of Mr. Thériault's compensation structure with the Five Nations Clam Company.

Finally, Mr. LeBlanc submitted that he did not improperly further the private interests of Mr. Thériault, pointing to past reports where the Commissioner concluded that, given that there was no preferential treatment in the context of section 7, there was no impropriety.

ANALYSIS AND CONCLUSION

Analysis

In this examination, I must determine whether Mr. LeBlanc, in his former position as Minister of Fisheries, Oceans and the Canadian Coast Guard, contravened subsection 6(1) and section 21 of the Act when he made the decision to pursue issuing an Arctic surf clam licence to the Five Nations Clam Company.

Subsection 6(1) of the Act prohibits public office holders from making a decision that would place them in a conflict of interest. It reads as follows:

> *6. (1) No public office holder shall make a decision or participate in making a decision related to the exercise of an official power, duty or function if the public office holder knows or reasonably should know that, in the making of the decision, he or she would be in a conflict of interest.*

Section 4 of the Act describes the circumstances under which a public office holder would be in a conflict of interest for the purposes of subsection 6(1) of the Act. Section 4 reads as follows:

> *4. For the purposes of this Act, a public office holder is in a conflict of interest when he or she exercises an official power, duty or function that provides an opportunity to further his or her private interests or those of his or her relatives or friends or to improperly further another person's private interests.*

Section 21 of the Act requires public office holders to recuse themselves from certain situations. It reads as follows:

> *21. A public office holder shall recuse himself or herself from any discussion, decision, debate or vote on any matter in respect of which he or she would be in a conflict of interest.*

The evidence gathered in this examination shows that Mr. LeBlanc, Minister of Fisheries, Oceans and the Canadian Coast Guard, was exercising an official power, duty and function when he made the decision to pursue the proposal from the Five Nations Clam Company for the Arctic surf clam licence to the exclusion of all other proposals. Mr. LeBlanc was acting squarely within his authority under the *Fisheries Act* in making this ministerial decision.

Mr. Thériault had a potential pecuniary interest in the outcome, as the intention was for Mr. Thériault to take the position of General Manager of the Five Nations Clam Company. This was apparent in the Five Nations Clam Company's proposal submitted to the department and reviewed by Mr. LeBlanc. Although there was no evidence to suggest that Mr. LeBlanc was aware of the specific compensation structure attributed to the General Manager of the Five Nations

Clam Company, I find that Mr. LeBlanc knew or reasonably should have known that Mr. Thériault, as General Manager, would have received some form of compensation for his involvement in the event the licence was awarded. I am therefore satisfied that Mr. LeBlanc had the opportunity to further Mr. Thériault's private interests in the matter, even though the licence was ultimately not awarded.

What remains to be determined is whether Mr. LeBlanc was in a conflict of interest within the meaning of section 4 of the Act by furthering the private interests of a relative. Mr. LeBlanc is of the view that Mr. Thériault is not a relative within the meaning of the Act, since the family connection is too weak to give rise to a conflict. According to Mr. LeBlanc, the Act only applies to a public office holder's immediate family members, not a spouse's first cousin.

The Act specifies the following with regard to relatives of public office holders:

> *2(3) Persons who are related to the public office holder by birth, marriage, common-law partnership, adoption or affinity are the public office holder's relatives for the purposes of this Act unless the Commissioner determines, either generally or in relation to a particular public office holder, that it is not necessary for the purposes of this Act that a person or a class of persons be considered a relative of a public office holder.*

The scope of the term for the purposes of the Act is expansive and not restricted to immediate family members. In particular, I note that relatives by affinity, generally defined as persons who are related as a result of marriage, are specifically mentioned. This provision affords me considerable discretion to exclude a person or class of persons from being considered a relative. Mr. Thériault, as Mr. LeBlanc's spouse's first cousin, would qualify as a relative by affinity, unless I am of the view that it is not necessary for the purposes of the Act.

Furthermore, the Act also includes a separate, more restrictive definition of "family members" in subsection 2(2):

> *2(2) The following are the members of a public office holder's family for the purposes of this Act:*
>
> *(a) his or her spouse or common-law partner; and*
> *(b) his or her dependent children and the dependent children of his or her spouse or common-law partner.*

Thus the Act distinguishes between the requirements public office holders have with respect to their family members and to their relatives. For this reason, I cannot accept Mr. LeBlanc's narrow interpretation of the term "relative" for the purposes of the Act. I am of the opinion that the intent of the Act is to view the definition of relative beyond the immediate members of a public office holder's family.

Based on the evidence gathered, there is no question that Mr. Thériault is Mr. LeBlanc's relative by affinity and that Mr. LeBlanc was aware of this family relationship at the time of the decision. Mr. LeBlanc was also aware of Mr. Thériault's extensive involvement in the fishing industry and had discussed the submission of the proposal prior to its receipt by Fisheries and Oceans Canada at an official meeting between Mr. Thériault and Mr. LeBlanc on another matter. The inclusion of Mr. Thériault's name in the proposal, while no doubt adding to its credibility due to his extensive involvement in the seafood industry and with First Nations in New Brunswick, should have put Mr. LeBlanc on notice of the existence of a potential conflict.

Mr. LeBlanc's position was that a conflict, perceived or actual, could not occur because he and Mr. Thériault did not have a relationship beyond that of being acquaintances. In other words, they did not enjoy a close familial relationship. In the absence of a definition of "friend" in the Act, I have been required in other cases to make a determination on the closeness of a personal relationship. For example, I took into account the extent of a relationship to determine whether it constituted a friendship under the Act in the *Chapman Report*. The closeness of the relationship is of less concern, however, when looking at a situation involving relatives through the lens of the Act. I see no reason here to adopt a set of criteria as must be done for friends, especially since there is no legislative indication that such considerations are warranted.

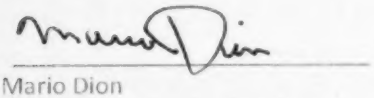
Although Mr. LeBlanc wrote that his spouse has 60 first cousins including Mr. Thériault, I am of the view that a spouse's first cousin, as a class of persons generally or in relation to Mr. LeBlanc in particular, should not be excluded from the definition of relatives.

Public office holders are not expected to have knowledge of the private affairs of each of their birth relatives, much less those of relatives by affinity. However, when they are aware of an opportunity to further the private interests of a relative through the exercise of an official power, duty or function, they must be vigilant in taking appropriate action to avoid a conflict of interest.

I find, for the reasons stated above, that Mr. LeBlanc was in a conflict of interest in relation to the decision to award the Arctic surf clam licence to the Five Nations Clam Company. Consequently, Mr. LeBlanc should have recused himself from that decision since it provided an opportunity to further Mr. Thériault's private interests.

Conclusion

For the reasons stated above, I have determined that Mr. LeBlanc contravened subsection 6(1) of the Act by making a decision that placed him in a conflict of interest, as well as section 21 of the Act, which sets out a corresponding duty to recuse.



Mario Dion
Conflict of Interest and Ethics Commissioner
September 12, 2018

SCHEDULE: LIST OF WITNESSES

The names of all witnesses are listed below according to the organizations to which they belonged at the time of the events that are the subject of this examination.

Written Submissions

McGraw Seafood

- Mr. Gilles Thériault, General Manager

Information and Documents Requested

Fisheries and Oceans Canada

- Catherine Blewett, Deputy Minister
- Kevin Stringer, Associate Deputy Minister